IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTIETH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE GODA RAGHURAM

WRIT PETITION NO : 82 of 2005

Between:

Kondaragunta Venkateswarlu, S/o. K. Subbaiah,
Chinthagumpalli Village, Chinaganjam Mandal, Prakasam District.

..... PETITIONER

AND

1 Assistant Commissioner, Endowment Department, Ongole, Prakasam District.
2 The Manager, Vura Cheruvu, Chinthagumpalli Village, Chinaganjam Mandal, Prakasam District.
3 Chinthagumpalli Gram Panchayat, rep. by its Secretary, Chinthagumpalli, Chinganjam Mandal, Prakasam District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to Issue a Writ of Mandamus or any other appropriate Writ or Order or direction declaring that respondents 1 and 2 have no right to conduct public auction of lease-hold rights of Vura Cheruvu Situated in Chinthagumpalli Village, Chinaganjam Mandal, Prakasam District by declaring their action in trying to conduct public action as arbitrary, illegal and unconstitutional.

Counsel for the Petitioner: MR.K.SURESHREDDY

Counsel for the Respondent Nos.1&2: GP FOR ENDOWMENTS

Counsel for the Respondent No.3: ---------

The Court made the following:

ORAL ORDER

Aggrieved by the action of the respondent Nos.1 and 2 in conducting a public auction in respect of lease hold rights of Vura Cheruvu in Chinthagumplli village, Chinaganjam Mandal, Prakasam District, the writ petition is filed.

Vura Cheruvu is a fish tank. According to the petitioner, it vests in the Gram Panchayat. Every year fishing rights for this tank are leased out by the Gram Panchayat by public auction. In the public auction conducted on 19-07-2004 by the Gram Panchayat, the petitioner became the highest bidder and was granted leasehold rights for fishing in Vura Cheruvu. The lease commenced from 01-07-2004 and enures up to 30-06-2005. The petitioner has paid some amounts after the lease was granted in his favour. He also made investments by purchasing fish seed etc. While so, the 2nd respondent issued a publication proposing to conduct public auction for lease hold rights in respect of fishing in the Vura Cheruvu for the period from 12-01-2005 to 11-01-2006. The auction is scheduled on 12-01-2005.

Aggrieved by the above conduct of the first respondent and apprehending interference with his rights of fishing in the tank consequent upon the grant of leasehold rights in his favour by the Gram Panchayat, Chinthagumpalli, the petitioner is before this Court seeking, in substance, a declaratory-cum-injunctive relief against 1st and 2nd respondents to restrain them from conducting public auction of leasehold rights of fishing in the Vura Cheruvu.

There appears to be potential dispute between the Gram Panchayat and the Endowments authorities with regard to the rights over the Vura Cheruvu and in particular, the rights to auction fishing rights therein. Such title disputes are not normally adjudicated under Article 226 of the Constitution of India and more so at the instance of the petitioner, who admittedly, has at best a leasehold interest in the tank at the instance of the Gram Panchayat one of the claimants to rights in the tank.

In the circumstances, the writ petition is dismissed with liberty preserved in the petitioner to approach the appropriate jurisdictional civil Court for appropriate reliefs to safeguard his interests.

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GODA RAGHURAM,J

20th January 2005

*TSNR

TO

1 Assistant Commissioner, Endowment Department, Ongole, Prakasam District.

2 The Manager, Vura Cheruvu, Chinthagumpalli Village,
Chinaganjam Mandal, Prakasam District.

3 The Secretary, Chinthagumpalli Gram Panchayat,
Chinthagumpalli, Chinganjam Mandal, Prakasam District.

4. Two CCS to GP for Endowments, High Court Buildings, High Court of A.P. Hyderabad. (OUT)

5. Two C.D. Copies.